IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

-

WRIT PETITION NO : 14793 of 2004

Between:

E. Sugunamma W/o E. Tirumala
Managanoor Gram Panchayat R/o 4-194, Manganoor Village,
Bilnapally Mandal, Mahaboobnagar District.

..... PETITIONER

AND

1. The District Collector (PTS Wing) Mahaboobnagar, Mahaboobnagar District.
2. The Commissioner, PR & RE., Hyderabad.
3. M. Ashanna S/o. Balanagaiah
   Maganoor village, Bijinepally Mandal, Mahabubnagar District.
   R3 is impleaded as per court order dt. 16-11-2004 in WPMP 21059 of 2004.

.....RESPONDENTS

Petition under article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Certiorari in calling for records pertaining to proceedings No. E/1854/01 dt. 27-07-2004 on the file of the 1st Respondent and consequently quash the same as being violative of Article 14 and 21 of Constitution of India and Sec.233 of the Panchayat Raj Act, 1994.

Counsel for the Petitioner: MR.D.JAGAN MOHAN REDDY

Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

O R D E R :

1. This Writ Petition is filed by E.Sugunamma with a prayer to issue a Writ of Certiorari calling for the records pertaining to Proceedings No.E/1854/01, dated 27.7.2004 on the file of the 1st respondent and consequently quash the same as being violative of Articles 14, 21 of the Constitution of India and Sec.233 of the Panchayat Raj Act, 1994.

2. The case of the petitioner as set out in the writ affidavit is as follows:

3. The petitioner was elected as Sarpanch of Manganoor Gram Panchayat in the year 2001. A show cause notice was issued by the District Collector-1st respondent herein vide proceedings No.E/1854/01, dated 19-9-2003 as to why she should not be removed from the office of the Sarpanch, Gram Panchayat, Manganoor. A second show cause notice was also issued to the petitioner in Proceedings No.E/1854/01, dated 15-11-2003 directing her to submit explanation by 26.11.2003. O.P.No.15 of 2001 on the file of Election Tribunal under the Panchayat Raj Act-cum-Junior Civil Judge, Nagarkurnool has been filed by Mudda Laxmamma questioning the election of the petitioner held on 14.8.2001 on various grounds including the ground that the petitioner has made a false declaration before the Election Officer declaring her caste as Munnur Kapu whereas the petitioner actually belongs to Balija caste. While so, the District Collector-1st respondent passed orders on 27.7.2004 in exercise of the powers conferred under section 249(4) APPR Act, 1994 removing the petitioner from the post of Sarpanch, Manganoor Gram Panchayat. Assailing the orders of the District Collector-1st respondent, this writ petition is filed.

4. Learned counsel for the 3rd respondent submits that the writ petition itself is not maintainable since the writ petitioner has statutory remedy under section 249(7) of A.P.Panchayat Raj Act, 1994.

5. It is evident from the record that the District Collector-1st respondent passed orders under section 249(4) of A.P.Panchayat Raj Act, 1994. An appeal has been provided to the petitioner against the orders of the District Collector-1st respondent. It is useful to refer to Section 249(7) of A.P.Panchayat Raj Act, 1994 and it is thus:

" Sec.249(7): Any person aggrieved by an order of removal passed by the District Collector under sub-section (1) or sub-section (4) may, within thirty days from the date of the order prefer an appeal to the Government and the Government may, pending a decision on such appeal, stay the order appealed against."

Since a statutory appeal is provided, under section 249(7) of A.P. Panchayat Raj Act, 1994 against the order passed by the District Collector, the writ petitioner is at liberty to avail the same.

6. Accordingly, this Writ Petition is disposed of giving liberty to the petitioner to challenge the orders passed by the District Collector-1st respondent by preferring an appeal before the competent authority. No costs.

Dt: 24th June, 2005. (B.SESHASAYANA REDDY,J)

tnb

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector (PTS Wing) Mahaboobnagar, Mahaboobnagar District.

2. The Commissioner, PR & RE., Hyderabad.

3. 2 CD copies

4. Two copies to Govt. Pleader for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad (OUT).

5. 1 CC to MR.JAGAN MOHAN REDDY

6. 1 CC to MR.RAVINDER REDDY